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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,886	08/27/2001	Kevin O'Rourke	2001P07800US01	4813

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EXAMINER

NGUYEN, LE V

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/939,886

Applicant(s)

O'ROURKE, KEVIN

Examiner

Le Nguyen

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is responsive to an amendment filed 9/14/04.
2. Claims 1-22 are pending in this application. Claims 1, 17 and 22 are independent claims; and claims 1,2, 12, 14, 17, 19 and 22 have been amended. This action is made Final.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

4. Claims 1-8 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayaud in view of Evans.

As per claim 1, although Mayaud teaches a method for transferring medical record information of a patient between portable processing devices (Abstract; fig. 16, *element 200*), comprising the steps of, on a first portable processing device, selecting information to be transferred in response to user command (fig. 1, *element 16 "Mail"*), establishing a communication link with a second portable processing device (fig. 1) and communicating patient identification information and the selected information on the established communication link in response to user selection of a displayed icon (fig. 1; col. 10, lines 11-31; col. 50, lines 48-54; *users communicate patient record access code or patient identification and selected information via displayed icon "Mail"*), Mayaud does not explicitly disclose the communication link being bi-directional. Evans teaches a

method for transferring medical record information of a patient between portable processing devices comprising establishing a bi-directional communication link (Abstract; figs. 3, 5-8 and 19-22; col. 9, lines 10-14). Therefore, it would have been obvious to an artisan at the time of the invention to include Evans' teaching of a bi-directional link to Mayaud's teaching of a communication link so that patient information may be annotated as well as retrieved.

As per claim 2, the modified Mayaud teaches a method for transferring medical record information of a patient between portable processing devices wherein the established communication link with the second portable processing device includes a wireless link (Evans: Abstract; figs. 3, 5-8 and 19-22; col. 9, lines 10-14; *in a wireless portable computing environment, healthcare providers may communicate with other healthcare providers to obtain patient data such as in the case of a request for transfer patient information*) and the step of selecting information to be transferred comprises selecting at least one of, (a) medical information associated with a plurality of patients, (b) medical information associated with a specific patient, (c) laboratory test results for a specific patient, (d) a medical report associated with a plurality of patients and (e) medical information associated with a specific healthcare provider and an associated group of patients (Mayaud: Abstract; fig. 1; col. 10, lines 11-31; Evans: Abstract; figs. 3, 5-8 and 19-22; col. 9, lines 10-14).

As per claim 3, the modified Mayaud teaches a method for transferring medical record information of a patient between portable processing devices wherein the step of selecting information to be transferred includes the step of supporting user navigation,

in response to user command, through a plurality of display images to enable selection of the information to be transferred (Mayaud: col. 26, lines 2-30).

As per claim 4, the modified Mayaud teaches a method for transferring medical record information of a patient between portable processing devices including the step of configuring the method of transferring patient record information between portable processing devices by pre-selecting data elements comprising the patient identification information (Mayaud: fig. 1; col. 10, lines 11-31).

As per claim 5, the modified Mayaud teaches a method for transferring medical record information of a patient between portable processing devices wherein the data elements comprising the patient identification information include at least two of (a) username, (b) password, (c) patient identifier, (d) patient gender identifier, (e) patient birth date and (f) calling application identification supporting return of control to the calling application upon completion of communication on an established link (Mayaud: col. 10, lines 12-15 and 44-51; col. 17, lines 44-53).

As per claim 6, the modified Mayaud teaches a method for transferring medical record information of a patient between portable processing devices including the steps of validating user authorization to access the selected information and inhibiting communication of the selected information on the established communication link in response to unsuccessful validation of user authorization to access the selected information (Mayaud: col. 10, lines 12-15).

As per claims 7 and 8, the modified Mayaud teaches a method for transferring medical record information of a patient between portable processing devices including

the steps of authorizing a second user access to the selected information, the second user being an intended recipient of the communicated selected information, inhibiting communication of the selected information on the established communication link in response to unsuccessful validation of second user authorization to access the communicated selected information and receiving second user authorization information identifying a second user's authorization to access the selected information (Mayaud: col. 10, lines 20-31).

As per claim 17, although Mayaud teaches a method for receiving medical record information communicated to a first receiving portable processing devices from a second portable processing device, comprising the steps of, on a first receiving portable processing device (col. 10, lines 12-31), validating user authorization to access medical information, establishing a communication link with a second portable processing device (fig. 1) and inhibiting access to the medical information in response to unsuccessful validation of user authorization, the inhibiting access being performed by at least one of (a) inhibiting receiving the medical information the associated patient identification information on the established communication link, and (b) inhibiting storing the medical information and associated patient identification information received on the established communication link (col. 10, lines 12-31), Mayaud does not explicitly disclose the communication link being bi-directional. Evans teaches a method for transferring medical record information of a patient between portable processing devices comprising establishing a bi-directional communication link (Abstract; figs. 3, 5-8 and 19-22; col. 9, lines 10-14). Therefore, it would have been obvious to an artisan at the time of the

invention to include Evans' teaching of a bi-directional link to Mayaud's teaching of a communication link so that patient information may be annotated as well as retrieved.

As per claim 18, the modified Mayaud teaches a method for receiving medical record information communicated to a first receiving portable processing devices from a second portable processing device including the steps of initiating generation of a message to prompt a user to affirm receipt of the medical information is desired and inhibiting receipt of the medical information in response to a non-affirmation (Mayaud: col. 10, lines 12-31; col. 18, lines 42-46; *users may set the level of medical information access so that only those allowed access may affirm their accessibility for receipt of the medical information and those not able to affirm their accessibility is denied receipt of the medical information*).

As per claim 19, the modified Mayaud teaches a method for receiving medical record information communicated to a first receiving portable processing devices from a second portable processing device wherein the established communication link with the second portable processing device includes a wireless link (Evans: Abstract; figs. 3, 5-8 and 19-22; col. 9, lines 10-14; *in a wireless portable computing environment, healthcare providers may communicate with other healthcare providers to obtain patient data such as in the case of a request for transfer patient information*) and the validation of user authorization comprises password validation (Mayaud: col. 10, lines 12-31).

As per claim 20, the modified Mayaud teaches a method for receiving medical record information communicated to a first receiving portable processing devices from a second portable processing device including the step of configuring the method of

transferring patient record information between portable processing devices by pre-selecting data elements comprising the patient identification information (Mayaud: fig. 1; col. 10, lines 11-31).

As per claim 21, the modified Mayaud teaches a method for receiving medical record information communicated to a first receiving portable processing devices from a second portable processing device include at least two of (a) username, (b) password, (c) patient identifier, (d) patient gender identifier, (e) patient birth date and (f) calling application identification supporting return of control to the calling application upon completion of communication on an established link (Mayaud: col. 10, lines 12-15 and 44-51; col. 17, lines 44-53).

Claim 22 is similar in scope to claim 1 and is therefor rejected under similar rationale.

5. Claims 9, 10 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayaud in view of Evans as applied to claim 1, and further in view of Microsoft Internet Explorer 5.0 ("IE").

As per claim 9, the modified Mayaud teaches a method for transferring medical record information of a patient between portable processing devices including the step of storing a plurality of communication settings associated with a plurality of corresponding communication links wherein an acknowledgement is received within a predetermined time-out window, indicating a communication link with a second portable processing device is established (Mayaud: col. 12, lines 18-33; fig. 3; col. 42, lines 9-12; col. 25, lines 15-19; *the message "Remote Retrieval" is displayed when additional time*

is taken to access remote databases while update button 58 in window 39 can be a simple blinking indicator alerting the user that their device is communicating with the host computer), the modified Mayaud does not explicitly disclose sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings until an acknowledgement is received within a predetermined time-out window, indicating a communication link with a second portable processing device is established. IE teaches sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings (pages 1-2). Therefore, it would have been obvious to an artisan at the time of the invention to include IE's sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings to the modified Mayaud's method for transferring medical record information of a patient between portable processing devices including the step of storing a plurality of communication settings associated with a plurality of corresponding communication links wherein an acknowledgement is received within a predetermined time-out window, indicating a communication link with a second portable processing device is established so that in case of a bad channel, connection can still be established.

As per claim 10, the modified Mayaud teaches a method for transferring medical record information of a patient between portable processing devices wherein the plurality of communication links comprise at least two (a) connection via a PC compatible serial port, (b) connection via an infra-red link to a PC compatible serial port,

(c) connection via an Ethernet compatible network (d) connection via an infra-red link to an Ethernet compatible network and (e) a wireless network connection (Mayaud: col. 45, line 35 through col. 46, line 15).

As per claims 12, 14 and 16, the modified Mayaud teaches a method for transferring medical record information of a patient between portable processing devices wherein the established communication link with the second portable processing device includes a wireless link (Evans: Abstract; figs. 3, 5-8 and 19-22; col. 9, lines 10-14; *in a wireless portable computing environment, healthcare providers may communicate with other healthcare providers to obtain patient data such as in the case of a request for transfer patient information*) and the communication settings comprise a set of communication settings applicable to a corresponding individual communication link and wherein the initiating communication step comprises initiating communication on the plurality of communication links one at a time in a predetermined sequential order and including the step of repeating the initiating communication step for a predetermined number of times until a connection is established or a communication failure is declared (IE: pages 1-2; Mayaud: fig. 3; col. 42, lines 9-12; col. 25, lines 15-19).

As per claim 13, the modified Mayaud teaches a method for transferring medical record information of a patient between portable processing devices wherein the set of communication settings include at least two of (a) data rate, (b) protocol identifier, (c) sender identifier code, (d) error handling code identifier and (e) data format identifier (IE:

pages 1-3; Mayaud: fig. 3; col. 42, lines 9-12; col. 25, lines 15-19; col. 45, line 35 through col. 46, line 15).

As per claim 15, the modified Mayaud teaches a method for transferring medical record information of a patient between portable processing devices wherein the data elements comprising the patient identification information include at least two of (a) username, (b) password, (c) patient identifier, (d) patient gender identifier, (e) patient birth date and (f) calling application identification supporting return of control to the calling application upon completion of communication on an established link (Mayaud: col. 10, lines 12-15 and 44-51).

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mayaud, Evans and Microsoft Internet Explorer 5.0 ("IE") as applied to claim 9, and further in view of Rothschild et al. ("Rothschild").

As per claim 11, although the modified Mayaud teaches a method for transferring medical record information of a patient between portable processing devices wherein a step of sequentially initiating communication is performed to establish communication (Mayaud: fig. 3; col. 42, lines 9-12; col. 25, lines 15-19), the modified Mayaud does not explicitly disclose that the step of sequentially initiating communication is performed upon detection of a lost connection. Rothschild teaches a method for transferring medical record information of a patient between processing devices (9[0086]) wherein a step of sequentially initiating communication is performed automatically upon detection of a lost connection to support seamless operation (9[0088]). Therefore, it would have been obvious to an artisan at the time of the invention to include Rothschild's step of

sequentially initiating communication automatically upon detection of a lost connection to support seamless operation to the modified Mayaud's step of sequentially initiating communication to establish communication in order to provide users with uninterrupted communication and save time from having to manually reestablish communication.

Response to Arguments

7. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection, except for the following:

Applicant argued the following:

(a) None of the references provide any motivation or reasons for incorporating the claimed features of claim 9. In addition, the incorporation of the IE features into the Mayaud (with Rothschild) systems as suggested by the rejection, results in a system in which a portable processing device initiates Internet or network communication on a single communication link, with a fixed location host computer using communication settings pre-configured using a configuration menu; such a system does not provide the features of the claimed arrangement.

(b) The modified Mayaud does not enable repetitive *sequential* initiation of communication on individual *communication links, one at a time*, using associated corresponding communication settings.

The examiner disagrees for the following reasons:

Per (a), in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, claim 9 dependent on 1 and rejected over Mayaud, Evans and IE teaches a method for transferring medical record information of a patient between portable processing devices including the step of storing a plurality of communication settings associated with a plurality of corresponding communication links wherein an acknowledgement is received within a predetermined time-out window, indicating a communication link with a second portable processing device is established (Mayaud: col. 12, lines 18-33; fig. 3; col. 42, lines 9-12; col. 25, lines 15-19). The teaching extracted from IE is for the sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings (pages 1-2).

Furthermore, in response to applicant's argument that combining the references would not result in the same filed invention as claimed in claim 9, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the

test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Per (b), the modified Mayaud does teach repetitive *sequential* initiation of communication on individual *communication links, one at a time*, using associated corresponding communication settings (IE: pages 1-2; i.e. *users may repetitively and sequentially select communication links, one at a time, via menus/submenus to establish communication for such scenarios as when a line is down or busy*). If by repetitive "sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings" applicant meant automatically and sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings (*i.e. automatically without user intervention*), applicant is invited to incorporate this meaning into the claim language.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

De la Hueraga et al. (US 5,903,889) teach a system and method for translating, collecting and archiving patient records.

Moshfeghi (US 6,476,833) teach a method and apparatus for controlling browser functionality in the context of an application.

Ohmori et al. (US 6,678,397 B1) teach a medical image filing system.

Ross, Jr. et al. (US 5,823,948) teach a medical records, documentation, tracking and order entry system.

Simborg et al. (US 5,950,168) teach a collapsible flowsheet for displaying patient information in an electronic medical record.

Bertram et al. (US 5,880,724) teach a mobile client programmed for importation of data into title display.

Holzman et al. (US 6,208,344 B1) teach a system and process for manipulating and viewing hierarchical iconic containers.

Buchanan et al. (US 5,267,155) teach an apparatus and method for computer-assisted document generation.

Lavin et al. (US 5,772,585) teach a system and method for managing patient medical records.

Whalen et al. (US 5,327,341) teach a computerized file maintenance system for managing medical records including narrative reports.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquires

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lê Nguyen whose telephone number is (571) 272-4068. The examiner can normally be reached on Monday - Friday from 7:00 am to 3:30 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

The fax numbers for the organization where this application or proceeding is assigned are as follows:

(703) 872-9306 [Official Communication]

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

LVN
Patent Examiner
February 12, 2005

Kristine Kincaid
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